

REMARKS

Reconsideration of this application, based on this amendment and these following remarks, is respectfully requested.

Claims 1 through 6, 8, 9, 11, 20 through 30, and 33 through remain in this case. Claims 7, 10, 12 through 19, 31, and 32 are canceled. Claims 1 through 3, 8, 9, 11, 20 through 26, 29, 30, and 33 are amended.

A statement was made by the Examiner¹ reminding the Applicant of the proper language and format of the Abstract of the Disclosure, but no objection to the Abstract was expressly made. Applicant presents a revised Abstract of the Disclosure in this paper, in the spirit of providing a full and complete Abstract.

Claims 1, 7, 11, 14, 19, and 21 through 24 were rejected under §102(e) as anticipated by the Halpern et al. reference². In the stated rationale for each of these claims, the Examiner asserted that the reference inherently teaches information indicating a condition needed for executing the executable file containing the program.³

Claim 1 is amended to overcome the rejection. This amendment should not be interpreted as acquiescing in the rejection, but is intended to advance the prosecution of this case by clarifying the patentability of the claim over the applied reference.

Amended claim 1 now requires the additional steps of retrieving the program and condition information, and of determining whether a data processor in the system satisfies the condition information for the retrieved program. The downloading step is now recited as being performed responsive to the determining step. Support for this amendment to claim 1 is

¹ Office Action of July 28, 2003, p. 2, ¶5.

² U.S. Patent No. 6,282,711 B2, issued August 28, 2001 to Halpern et al., from an application filed August 10, 1999.

³ Office Action, *supra*, ¶ 7, pp. 3 through 5.

present in the specification of this application⁴, and therefore no new matter is presented by this amendment.

Claims 2 and 3 are amended for consistency with amended claim 1, upon which they depend, and for clarity. Independent claim 7 is canceled, to advance the prosecution of this application, and its dependent claims 8, 9, and 11 are amended to now depend on amended claim 1. Similarly, independent claim 14 is also canceled, to advance the prosecution of this application, and its dependent claims 20 through 22 are amended to also now depend on amended claim 1. Accordingly, claims 2 through 6, 8, 9, 11, and 20 through 22 now depend on amended claim 1.

Applicant respectfully submits that amended claim 1 and its dependent claims are novel over the Halpern et al. reference, because the reference fails to teach the step of determining whether a data processor in a system satisfies retrieved condition information, and then downloading the program to the data processor responsive to this determining step, as required by the claim. Rather, the Halpern et al. reference discloses the custom building of a software installation package based on inputs from a client system, and then sending the customized installation package to the client system.⁵ In other words, the Halpern et al. reference teaches the providing of an executable file *after* the information regarding the eventual data processor is gathered and analyzed. The Halpern et al. reference therefore necessarily fails to disclose the determining of whether a data processor satisfies condition information for a retrieved program, as required by amended claim 1. Because the reference lacks one of the steps of amended claim 1, Applicant respectfully submits that amended claim 1 and its dependent claims are novel over the Halpern et al. reference.

As mentioned above, claims 23 and 24 were also rejected under §102(e) as anticipated by the Halpern et al. reference. Claims 23 and 24 are also amended to overcome the rejection. This amendment should not be interpreted as acquiescing in the rejection, but is intended to advance

⁴ Specification of S.N. 09/822,753, filed March 30, 2001, at page 5, line 10 through page 6, line 6; at page 9, lines 12 through 21; at page 10, lines 8 through 11.

⁵ Halpern et al., *supra*, column 4, line 44 through column 6, line 19.

the prosecution of this case by clarifying the patentability of the claim over the applied reference.

Amended claims 23 and 24, both of which are independent claims, now each require that the first data processor in the claimed apparatus be programmed to perform a sequence of operations comprising the obtaining of program and condition information from a file storage facility, determining whether a second data processor satisfies the condition information, and responsive to determining that it does, downloading the program to the second data processor. Support for this programming of the first data processor may be found in the specification⁶, and as such no new matter is presented by this amendment to claims 23 and 24.

Claims 25, 26, 29, 30, and 33 are amended for consistency with amended claim 24, upon which they depend, and for clarity.

Applicant respectfully submits that amended claims 23 and 24 are each novel over the Halpern et al. reference, because the reference fails to teach the determining of whether a second data processor satisfies condition information for a program obtained from a file storage facility, as required by these claims. As discussed above relative to amended claim 1, the Halpern et al. reference teaches the building of a customized software installation package in response on inputs from a user and from a client system; once the installation package is constructed, the package is downloaded to the client system.⁷ The Halpern et al. reference fails to disclose the determining step of amended claims 23 and 24 because it instead teaches the generation of an executable file using information about the eventual data processor, gathered and analyzed before the installation package is constructed. Because the reference lacks one of the elements of amended claims 23 and 24, namely the first data processor that is programmed in the recited manner, Applicant respectfully submits that amended claim 23, amended claim 24, and the claims dependent on amended claim 24, are all novel over the Halpern et al. reference.

⁶ Specification, *supra*, at page 5, line 10 through page 6, line 6; at page 9, lines 12 through 21; at page 10, lines 8 through 11.

⁷ Halpern et al., *supra*, column 4, line 44 through column 6, line 19.

For these reasons, Applicant respectfully submits that all of the claims remaining in this case are novel over the Halpern et al. reference.

Claims 2 through 6, 8 through 10, 12, 13, 15 through 18, 20, and 25 through 33, were all rejected under §103 as unpatentable over the Halpern et al. reference, taken individually, in combination with the Carron et al. reference⁸, the Tevanian et al. reference⁹, and the admitted prior art.

Applicant respectfully submits that, considering the amendment to remaining independent claims 1, 23, and 24, all of the claims in this case are patentably distinct over the prior art of record.

The method of amended claim 1 provides important advantages in the management of co-processors in multi-processor systems.¹⁰ By providing condition information within an executable file containing the program itself, auxiliary data sources (e.g., SQL engine, Microsoft registry, auxiliary text files) are not necessary, and the handling of such files is avoided.¹¹ In addition, a host processor operating according to this invention can ensure that a co-processor is capable of executing the program prior to the download of the program to the co-processor¹², and can also select the optimum co-processor in the system for the program if more than one is available¹³. Additionally, the method of claim 1 avoids the need for separate APIs for multiple operating systems¹⁴, and is sufficiently efficient that it can be used in single-chip systems¹⁵.

Applicant respectfully submits that there is no suggestion from the cited prior art to modify the teachings of the Halpern et al. reference in such a manner as to reach amended claim 1, or any of its dependent claims. Relative to the Halpern et al. reference itself, as mentioned above, these teachings are directed to the generation of a custom installation package for a client

⁸ U.S. Patent No. 4,724,351, issued to Carron et al.

⁹ U.S. Patent No. 5,604,905, issued to Tevanian et al.

¹⁰ Specification, *supra*, page 11, lines 6 through 19.

¹¹ Specification, *supra*, page 3, lines 3 through 8.

¹² Specification, *supra*, page 9, lines 17 through 21.

¹³ Specification, *supra*, page 6, lines 3 through 6.

¹⁴ Specification, *supra*, Figure 8.

system, based on inputs from the user and the components in the client system; as such, to the extent that non-program information is present in the installation package, such information is based on inputs from the client system. This distinction is (inadvertently) evident in the Examiner's assertion regarding the word "required" in the Halpern et al. sentence "[t]his is no bigger or smaller than what is absolutely required by the components and options selected"¹⁵; this phrase has exactly the opposite meaning from the phrase "a condition *needed* for execution of the program" in claim 1. In the Halpern et al. reference, the installation package is "pared down" to only that *needed by* the receiving system, while in the claimed method, the condition information indicates what is *needed for* the receiving data processor to execute the program.

Secondly, in order for these teachings to be modified to correspond to amended claim 1, particularly with reference to the providing and determining steps, the custom installation packages of the Halpern et al. reference must be provided before the request by the client system for a package, so that the downloading system could then obtain the condition information and determine whether a data processor in its system meets the condition. There is simply no suggestion from the prior art to modify the Halpern et al. reference in this manner. Indeed, this modification would tend to defeat the purpose of the Halpern et al. system, because either its installation packages would no longer be customized, or alternatively the requirements of its storage system would be enormous (if one package were pre-stored for each possible system configuration).

The other references add no suggestion or combinable teachings in this regard, nor does the admitted prior art.

Accordingly, Applicant submits that there is no suggestion to modify the teachings of the Halpern et al. reference in such a manner as to reach the requirements of amended claim 1 and its dependent claims. The important advantages provided by the claimed method, such advantages nowhere present in the prior art nor even applicable to the system of the primary reference, support the patentability of these claims. Applicant therefore submits that amended

¹⁵ Specification, *supra*, page 1, line 15 through page 2, line 2.

¹⁶ Halpern et al., *supra*, Abstract, lines 19 through 21, cited in Office Action, *supra*, ¶7.

claim 1 and its dependent claims 2 through 6, 8, 9, 11, and 20 through 22 are all patentable over the prior art of record in this case.

Similarly, apparatus claims 23 and 24, and the claims dependent on amended claim 24, provide the important advantages of efficiently managing co-processors in a system, avoiding auxiliary databases, and providing improved compatibility across multiple platforms.¹⁷

As urged above, Applicant submits that there is no suggestion to modify the teachings of the Halpern et al. reference to reach amended claims 23 through 30, and 33. The Halpern et al. reference, as mentioned above, teaches the generation of a custom installation package for a client system in response to client inputs, rather than the determination of whether a particular data processor can or should execute a program, using condition information within the executable file along with the program, as performed in the claimed system. The teachings of the Halpern et al. reference itself instead support the conclusion that such a modification would work against the purposes of its system. The other applied references add no teachings or suggestion in this regard, nor does the admitted prior art.

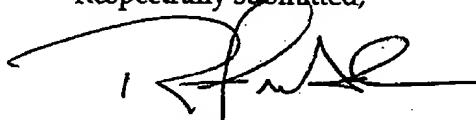
Especially considering important advantages provided by the claimed apparatus, which support the patentability of these claims, Applicant submits that there is no suggestion to modify the teachings of the Halpern et al. reference in such a manner as to reach the requirements of amended claim 23, amended claim 24, and the claims dependent on amended claim 24. Applicant therefore submits that amended claims 23 through 30, and 33, are all patentable over the prior art of record in this case.

The prior art cited by the Examiner as pertinent, but not applied, has been considered but is not felt to come within the scope of the claims now in this case.

¹⁷ Specification, *supra*, e.g. at page 11, lines 6 through 19.

For the above reasons, Applicant respectfully submits that all claims now in this case are in condition for allowance. Reconsideration of the above-referenced application is therefore respectfully requested.

Respectfully submitted,



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